

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 426B.5(2)(f), the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

These amendments update provisions for operations of the Risk Pool Board to conform to changes enacted in 2008 Iowa Acts, House File 2423. The amendments provide that the Department will convene the Risk Pool Board earlier in the year and will accept and process risk pool applications from counties earlier. These changes will result in risk pool decisions and warrant distribution earlier in the year, which will make risk pool funds available to counties earlier. In order to accomplish this, the threshold for eligibility for risk pool funds must be based on the county budget and expenditures for the fiscal year that began two years before the fiscal year in which the risk pool funds are distributed.

These amendments do not provide for waivers in specified situations. The Department does not have authority to waive statutory provisions.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on September 18, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments merely conform the rules to the provisions of 2008 Iowa Acts, House File 2423.

The Department finds that these amendments confer a benefit by clarifying instructions to counties seeking risk pool funding. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 426B.5 as amended by 2008 Iowa Acts, House File 2423.

These amendments became effective October 1, 2008.

The following amendments are adopted.

ITEM 1. Rescind the definitions of "Preapproval application" and "Regular application" in rule **441—25.61(426B)**..

ITEM 2. Amend subrule 25.62(5) as follows:

**25.62(5) Board meetings.**

a. The board shall meet in ~~February~~ November of each year and may hold special meetings at the call of the chairperson or at the request of a majority of the voting members.

b. Any county making application for risk pool funds must be represented at the board meeting for awarding funds when that request is considered.

(1) The division shall notify the county of the date, time and location of the meeting.

(2) Any other persons with questions about the date, time or location of the meeting may contact the Administrator, Division of Mental Health and Disability Services, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50309-0114, telephone ~~(515)242-5994~~ (515)281-7277.

c. No change.

ITEM 3. Amend subparagraph **25.63(1)"a"(3)** as follows:

(3) ~~At the close of~~ In the fiscal year that ~~immediately preceded~~ commenced two years before the fiscal year of ~~application distribution~~, the county's services fund ending balance under generally accepted accounting principles was equal to or less than 20 percent of the county's actual gross expenditures for that fiscal year.

ITEM 4. Amend paragraphs **25.63(2)"b"** and **"e"** as follows:

b. *Deadline.* The division must receive the application no later than 4:30 p.m. on ~~January 25~~ October 31 of each year; or, if ~~January 25~~ October 31 is a holiday, Saturday or Sunday, the division must receive the application no later than 4:30 p.m. on the first working day thereafter. ~~An application~~

~~received before January 11 shall be considered a preapproval application and shall receive an initial decision on eligibility before the funding decision is made.~~

*e. Content.* ~~The~~ In addition to Form 470-3723, Risk Pool Application, the application package shall include the following forms for the fiscal year that commenced two years before the fiscal year of distribution:

- ~~(1) Form 470-3723, Risk Pool Application.~~
- ~~(2)~~ (1) Form 634C, Service Area 4 Supporting Detail (pages 1 to 8).
- ~~(3)~~ (2) Form 638R, Statement of Revenues, Expenditures, and Changes in Fund Balance—Actual and Budget (pages 1 and 2).
- ~~(4)~~ (3) If the budget has been amended, Form 653A-R, Record of Hearing and Determination on the Amendment to County Budget (sheet 2), ~~for both the current fiscal year budget, as last amended, and the prior fiscal year gross services fund expenditures.~~

ITEM 5. Amend subrule 25.63(3) as follows:

**25.63(3) Request for additional information.** Staff shall review all applications for completeness. If an application is not complete, staff of the division shall contact the county within four working days after ~~January 25~~ October 31 or the first working day thereafter, if ~~January 25~~ October 31 is a holiday, Saturday or Sunday, to request the information needed to complete the application. The county shall submit the required information within five working days from the date of the division's request for the additional information.

ITEM 6. Amend rule 441—25.64(426B), introductory paragraph, as follows:

**441—25.64(426B) Methodology for awarding risk pool funding.** The risk pool board shall make an eligibility decision on each application within 45 days after receiving the application and shall make a funding decision no later than ~~February 25~~ December 15.

ITEM 7. Amend paragraph **25.65(1)“b”** as follows:

*b.* An amount such that the fund balance after refund will not exceed 5 percent of the ~~year-end balance expenditures for the year~~ Fund balances shall be as determined on a modified accrual basis.

[Filed Emergency 9/19/08, effective 10/1/08]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/8/08.